

An Act Relating to the Medical Uses of Marijuana for Persons
Suffering from Debilitating Medical Conditions

Be it Enacted by the People of the State of Alaska

Sec 1. AS 17 is amended by adding a new chapter which reads as follows:

AS 17.35.010. Registry of Patients. (a) The Department shall create and maintain a confidential registry of patients who have applied for and are entitled to receive a registry identification card according to the criteria set forth in this chapter. Authorized employees of state or local law enforcement agencies shall be granted access to the information contained within the Department's confidential registry only for the purpose of verifying that an individual who has presented a registry identification card to a state or local law enforcement official is lawfully in possession of such card.

(b) No person shall be permitted to gain access to names of patients, physicians, primary care-givers or any information related to such persons maintained in connection with the Department's confidential registry, except for authorized employees of the Department in the course of their official duties and authorized employees of state or local law enforcement agencies who have stopped or arrested a person who claims to be engaged in the medical use of marijuana and in the possession of a registry identification card or its functional equivalent, pursuant to AS 17.35.010(e).

(c) In order to be placed on the state's confidential registry for the medical uses of marijuana, a patient shall provide to the Department:

(1) the original or a copy of written documentation stating that the patient has been diagnosed with a debilitating medical condition and the physician's conclusion that the patient might benefit from the medical use of marijuana;

(2) the name, address, date of birth, and social security number of the patient;

(3) the name, address, and telephone number of the patient's physician; and

(4) the name and address of the patient's primary care-giver, if one is designated at the time of application.

(d) The Department shall verify all information submitted under AS 17.35.010(c) within 30 days of receiving it. The Department shall notify the applicant that his or her application for a registry identification card has been denied if its review of the information which the patient has provided discloses that the information required pursuant to AS 17.35.010(c) has not been provided or has been falsified. Otherwise, not more than five days after verifying such information, the Department shall issue a serially numbered registry identification card to the patient stating:

(1) the patient's name, address, date of birth, and social security number;

(2) that the patient's name has been certified to the state health agency as a person who has a debilitating medical condition which the patient may address with the medical use of marijuana;

(3) the dates of issuance and expiration of the registry identification card; and

(4) the name and address of the patient's primary care-giver, if any is designated at the time of application.

(e) If the Department fails to issue a registry identification card within thirty-five days of receipt of an application, the patient's application for such card will be deemed to have been approved. Receipt of an application shall be deemed to have occurred upon delivery to the Department or deposit in the United States mails. Notwithstanding the foregoing, no application shall be deemed received prior to June 1, 1999. A patient who is questioned by any state or local law enforcement official about his or her medical use of marijuana shall provide a copy of the written documentation submitted to the Department and proof of the date of mailing or other transmission of the written documentation for delivery to the Department, which shall be accorded the same legal effect as a

registry identification card, until the patient receives actual notice that the application has been denied. No person shall apply for a registry identification card more than once every six months.

(f) The denial of a registry identification card shall be considered a final agency action subject to judicial review. Only the patient whose application has been denied shall have standing to contest the final agency action.

(g) When there has been a change in the name, address, physician, or primary care-giver of a patient who has qualified for a registry identification card, that patient must notify the state health agency of any such change within ten days. To maintain an effective registry identification card, a patient must annually resubmit updated written documentation to the state health agency, as well as the name and address of the patient's primary care-giver, if any.

(h) A patient who no longer has a debilitating medical condition shall return his or her registry identification card to the Department within twenty-four hours of receiving such diagnosis by his or her physician.

(i) The Department may determine and levy reasonable fees to pay for any administrative costs associated with their roles in this program.

AS 17.35.020. Medical Use of Marijuana. (a) A patient may not engage in the medical use of marijuana with more marijuana than is medically justified to address a debilitating medical condition. A patient's medical use of marijuana within the following limits is lawful:

(1) no more than one ounce of marijuana in usable form; and

(2) no more than six marijuana plants, with no more than three mature and flowering plants producing usable marijuana at any one time.

(b) For quantities of marijuana in excess of the amounts in AS 17.35.020(a), a patient or his or her primary care-giver must prove by a preponderance of the evidence that any greater amount was medically justified to address the patient's debilitating

medical condition.

AS 17.35.030. Privileged medical use of marijuana. (a) Except as otherwise provided in AS 17.35.040, no patient or primary care-giver may be found guilty of, or penalized in any manner for, a violation of any provision of law related to the medical use of marijuana, where it is proved by a preponderance of the evidence that:

(1) the patient was diagnosed by a physician as having a debilitating medical condition;

(2) the patient was advised by his or her physician, in the context of a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with a debilitating medical condition; and

(3) the patient and his or her primary care-giver were collectively in possession of amounts of marijuana only as permitted under this section.

(b) Except as otherwise provided in AS 17.35.040, no patient or primary care-giver in lawful possession of a registry identification card shall be subject to arrest, prosecution, or penalty in any manner for medical use of marijuana or for applying to have his or her name placed on the confidential register maintained by the Department.

(c) No physician shall be subject to any penalty, including arrest, prosecution, disciplinary proceeding, or be denied any right or privilege, for:

(1) Advising a patient whom the physician has diagnosed as having a debilitating medical condition, about the risks and benefits of medical use of marijuana or that he or she might benefit from the medical use of marijuana, provided that such advice is based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship; or

(2) Providing a patient with written documentation, based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship, stating that the patient has a debilitating medical condition and might benefit from the medical use of marijuana.

(d) Notwithstanding the foregoing provisions, no person, including a patient or primary care-giver, shall be entitled to the protection of this section for his or her acquisition, possession, cultivation, use, sale, distribution, and/or transportation of marijuana for non-medical use.

(e) Any property interest that is possessed, owned, or used in connection with the medical use of marijuana, or acts incidental to such use, shall not be harmed, neglected, injured, or destroyed while in the possession of state or local law enforcement officials where such property has been seized in connection with the claimed medical use of marijuana. Any such property interest shall not be forfeited under any provision of state or local law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense or entry of a plea of guilty to such offense. Marijuana and paraphernalia seized by state or local law enforcement officials from a patient or primary care-giver, in connection with the claimed medical use of marijuana shall be returned immediately upon the determination that the patient or primary care-giver is entitled to the protection contained in this section as may be evidenced, for example, by a decision not to prosecute, the dismissal of charges, or acquittal.

AS 17.35.040. Restrictions on medical use of marijuana.

(a) No patient in lawful possession of a registry identification card shall:

(1) engage in the medical use of marijuana in a way that endangers the health or well-being of any person;

(2) engage in the medical use of marijuana in plain view of, or in a place open to,

the general public; or

(3) sell or distribute marijuana to any person who is known to the patient not to be either in lawful possession of a registry identification card or eligible for such card.

(b) Any patient found by a preponderance of the evidence to have willfully violated the provisions of this chapter shall be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of one year.

(c) No governmental, private, or any other health insurance provider shall be required to be liable for any claim for reimbursement for the medical use of marijuana.

(d) Nothing in this section shall require any accommodation of any medical use of marijuana:

- (1) in any place of employment;
- (2) in any correctional facility;
- (3) on or within 500 feet of school grounds;
- (4) at or within 500 feet of a recreation or youth center; or
- (5) on a school bus.

AS 17.35.050. Medical use of marijuana by a minor.

Notwithstanding AS 17.35.030(a), no patient who has not reached the age of majority under AS 25.20 or who has not had the disabilities of a minor removed under AS 09.55.590 shall engage in the medical use of marijuana unless:

(a) his or her physician has diagnosed the patient as having a debilitating medical condition;

(b) the physician has explained the possible risks and benefits of medical use of marijuana to the patient and one of the patient's parents or legal guardians residing in Alaska, if any;

(c) the physician has provided the patient with the written documentation specified in AS 17.35.010(c)(1);

(d) the patient's parent or legal guardian referred to in AS 17.35.050(b), consents to the Department in writing to serve as the patient's primary care-giver and to permit the patient to engage in the medical use of marijuana;

(e) the patient completes and submits an application for a registry identification card and the written consent referred to in AS 17.35.050(d) to the Department and receives a registry identification card;

(f) the patient and the primary care-giver collectively possess amounts of marijuana no greater than those specified in AS 17.35.020(a)(1) and (2); and

(g) the primary care-giver controls the acquisition of such marijuana and the dosage and frequency of its use by the patient.

AS 17.35.060. Addition of debilitating medical conditions.

Not later than June 1, 1999, the Department shall promulgate regulations under the Administrative Procedure Act governing the manner in which it may consider adding debilitating medical conditions to the list provided in this section. After June 1, 1999, the Department shall also accept for consideration physician or patient initiated petitions to add debilitating medical conditions to the list provided in this section and, after hearing, shall approve or deny such petitions within one hundred eighty days of submission. The denial of such a petition shall be considered a final agency action subject to judicial review.

AS 17.35.070. Definitions. In this chapter, unless the context clearly requires otherwise:

(a) "Correctional facility" means a state prison institution operated and managed by employees of the Department of Corrections or provided to the Department of Corrections by agreement under AS 33.30.031 for the care, confinement or discipline of prisoners.

(b) "Debilitating medical condition" means:

(1) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency

syndrome, or treatment for any of these conditions;

(2) any chronic or debilitating disease or treatment for such diseases, which produces, for a specific patient, one or more of the following, and for which, in the professional opinion of the patient's physician, such condition or conditions reasonably may be alleviated by the medical use of marijuana: cachexia; severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis; or

(3) any other medical condition, or treatment for such condition, approved by the Department, pursuant to its authority to promulgate regulations or its approval of any petition submitted by a patient or physician under AS 17.35.060.

(c) "Department" means the Department of Health and Social Services;

(d) "Medical use" means the acquisition, possession, cultivation, use, and/or transportation of marijuana and/or paraphernalia related to the administration of such marijuana to address the symptoms or effects of a debilitating medical condition only after a physician has authorized such medical use by a diagnosis of the patient's debilitating medical condition.

(e) "Patient" means a person who has a debilitating medical condition.

(f) "Physician" means a person licensed to practice medicine in this state or an officer in the regular medical service of the armed forces of the United States or the United States Public Health Service while in the discharge of their official duties, or while volunteering services without pay or other remuneration to a hospital, clinic, medical office, or other medical facility in this state;

(g) "Primary care-giver" means a person, other than the patient's physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.

(h) "Prisoner" means a person detained or confined in a correctional facility, whether by arrest, conviction, or court order, or a person held as a witness or otherwise, including municipal prisoners held under contract and juveniles held under the authority of AS 47.10.

(i) "Registry Identification card" means a document issued by the Department's which identifies a patient authorized to engage in the medical use of marijuana and the patient's primary caregiver, if any.

(j) "Usable form" and "usable marijuana" means the seeds, leaves, buds, and flowers of the plant (genus) Cannabis, but does not include the stalks or roots.

(k) "Written documentation" means a statement signed by a patient's physician or copies of the patient's pertinent medical records.

AS 17.35.080. Short title.

A.S. 17.35.010--17.35.070 may be cited as the Medical Uses of Marijuana for Persons Suffering From Debilitating Medical Conditions Act.

Sec 2. AS 11.71.190(b) is amended to read:

Sec. 11.71.190(b). Schedule VIA. Marijuana is a schedule VIA controlled substance except for marijuana possessed for medical purposes under AS 17.35.